

PROBATE CALENDAR NOTES

April 2, 2013

1:30 p.m., Department 40

Updated March 29, 2013, 1:30 p.m.

Note: Due to the court holiday on April 1, 2013, no further updates will be posted.

The following are the Probate Calendar Notes for the probate calendar set for hearing April 2, 2013, in Department 40, Commissioner Michael A. Jacques, presiding. Department 40 is located at 10820 Justice Center Drive, Roseville, in the Santucci Justice Center.

If a verified petition on an accounting or petition for attorney fees is recommended for approval, no appearance is required. For all other matters, appearances are generally required. If you have questions regarding the following calendar notes, please contact the probate research attorney at (916) 408-6119. Do not contact Department 40 directly.

IF THE CALENDAR NOTES STATE THAT A DOCUMENT IS MISSING AND YOU HAVE A FILE-ENDORSED COPY OF THAT DOCUMENT, PLEASE FAX A COURTESY COPY OF THAT DOCUMENT TO (916) 408-6275. THE COURT DOES NOT ACCEPT DIRECT FAXES FOR FILING. ANY UNFILED DOCUMENT FAXED TO THIS LINE WILL NOT BE FILED.

Updated calendar notes will ordinarily be posted on the court day prior to the calendar. Please do not call the probate research attorney regarding the status of calendar notes until after checking for any updated notes.

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1. **S-PR-0004222 Allison, Danielle Lynn - In Re the Special Needs Trust Of**

Fifth account / report is recommended for approval as prayed.

2. **S-PR-0004301 Grubbs, Alma Alicia Garcia - In Re the Estate Of**

The OSC / review hearing is continued to May 28, 2013, 1:30 p.m., in Department 40. If the petition for final distribution is filed and calendared for hearing prior to that date, the OSC will be dropped.

3. **S-PR-0004904 Tipton, Wilma Opal - In re the Estate of**

Appearance required for status hearing / OSC re closing estate administration.

4. **S-PR-0005690 Wilhelm, John August - In Re the Conservatorship of**

Appearance required for further hearing on trust petition. In light of the response filed by Kessman on March 27, 2013, petitioner should be prepared to explain whether the pending petition is now moot.

Appearance also required for hearing on petition for instructions filed March 28, 2013. Missing mandatory form notice of hearing. Missing 30 days' service of notice of hearing, Prob.C. § 17203. The petition indicates that notice would be given to Susan Kessman in care of her attorney, which insufficient under the Probate Code and California Rules of Court; see Prob.C. § 1214, C.R.C. 7.51(a)(2).

5. S-PR-0006039 Riolo, Barbara Mae - In Re the Estate of

The real property succession petition is recommended for approval as prayed.

6. S-PR-0006305 Smith, Billy Roy - In Re the Estate of

Missing verification; petitioner's "e-signature" does not meet the verification requirements of Probate Code § 1021 or C.R.C. 7.103.

Missing disclosure / description of IAEA actions. Petition alleges no such actions, but notice of proposed action was filed December 2012. See C.R.C. 7.550. Clarification is needed.

Clarification is needed as to distribution described in ¶ 20. The proposed distribution refers to "Cash on hand minus \$435 filing fee minus \$7,419.80 stat fee" three times although the petition does not ask for reimbursement of any fees or costs, and statutory attorney fees are not applied three times.

7. S-PR-0006405 Cimoli, Gino - In Re the Estate of

Appearance is required for trial setting conference. Counsel for both Cimoli and Vigli may appear by phone; the court will contact counsel when the matter is called for hearing.

8. S-PR-0006619 Casella, Steven A. - In Re the Estate of

The personal representative creditor claim appears to be both untimely, Prob.C. § 9100, and barred, Prob.C. § 9002.

The claim was not presented on the mandatory form DE-172, in derogation of C.R.C. 7.101(a). The court has not exercised its statutory discretion to require a hearing on the claim. Prob.C. § 9525(a).

Missing service on estate beneficiary. Notice sent in-care-of another person is insufficient absent contrary written instructions. C.R.C. 7.51(a)(2).

Counsel for claimant / personal representative may appear by phone. The court has been informed counsel intends to submit on the pleadings and will not appear, even by phone.

9. S-PR-0006810 Oliver, Wayne Huston - In Re the Estate of

Appearance required for hearing on petition to administer estate.

Missing service of notice of hearing. Generally, petitioner is asked to make reasonable efforts to locate family members before estate administration is opened.

Note: Alan Dutra is not a probate referee for Placer County, contrary to proposed order ¶ 6.

Petitioner should be prepared to explain the need for these proceedings where no assets are known and no family members can be found.

10. S-PR-0006811 Festersen, Margaret Erin - In Re the Estate of

The petition to administer estate is recommended for approval as prayed.

11. S-PR-0006822 Schenfield Family - In Re the Trust of

Missing mandatory notice of hearing form, Prob.C. § 1211 & C.R.C. 7.101(a).
Missing proof of service of any form of notice of hearing.

Missing copy of trust. The petition includes only a trust amendment and a "declaration of intent". The court cannot determine the merits of the petition or the sufficiency of notice without a complete copy of the trust and any/all trust amendments. Information about decedents' testate beneficiaries or intestate heirs is also required for this purpose.

When the matter is ready for hearing, petitioner should be prepared to address whether the real property description in the assignment satisfies Prob.C. § 15206 for the real property in light of Estate of Heggstad (1993) 16 Cal.App.4th 943, Osswald v. Anderson (1996) 49 Cal.App.4th 812, and Kucker v. Kucker (2011) 192 Cal.App.4th 90.

12. S-PR-0006828 Dunmore, Ruth - In Re the Estate of

This hearing will be dropped. Petitioner has reserved April 16, 2013, 1:30 p.m., in Department 40 for hearing on an amended petition to administer decedent's estate.

13. S-PR-0006829 Klohs-Fleischmann, Carol - In Re the Estate of

Clarification needed: petition omits required allegation at ¶ 5(a)(7)-(8) (issue of predeceased child(ren)). The court cannot determine the sufficiency of notice without such clarification.

Petition caption, notice of hearing, and publication omit the request for IAEA powers. IAEA powers cannot be granted.

Missing signed duties form. Letters cannot issue until duties form (DE-147) is filed.